

USDC SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 8/26/2021

THE LAW FIRM OF

CÉSAR DE CASTRO, P.C.

ATTORNEY AT LAW

212.808.8100 Reception
646.839.2682 Fax
www.cdcastrolaw.com
cdcastro@cdcastrolaw.com

August 24, 2021

Via ECF

The Honorable Analisa Torres
United States District Judge
U.S. District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Brian Kolfage*, 20 Cr. 412 (AT)

Dear Judge Torres,

As the Court is aware, I was recently retained by Brian Kolfage to replace his previously retained counsel. I have communicated with the government, outgoing counsel, and my co-defendants' counsel regarding the status of the case. With the consent of all counsel, I write to request that the Court: (1) adjourn the trial date to a date in mid to late March 2022; and (2) modify the current motion schedule to allow me additional time to consult with my new client, review the discovery, and determine what, if any, motions to file.

On August 19, 2021, I filed a notice of appearance. Prior to filing my notice of appearance, I familiarized myself with the docket, discussed the matter with a co-defendant's counsel, and spoke with the government. I was able to speak with and e-mail with a colleague of Mr. Steinberg regarding the case, however, he had not personally worked on the matter. My understanding is that Mr. Steinberg has a demanding schedule and has not been able to speak with me, however, I learned from his colleague and the government that to date, the government has produced more than 800,000 pages of Rule 16 material. The most recent production was on August 13, 2021, and consisted of more than 60,000 pages of material. I note that Mr. Kolfage reports that he has only had access to, or the opportunity to review, very early productions which represents only a small fraction of the materials produced to date.

I am aware of the current motion schedule and trial date set by the Court and I am prepared to meet those deadlines if necessary. However, based on my limited conversations with prior counsel and my conversations with Mr. Kolfage, I believe that there will not be a volume of attorney work-product material on which I will be able to rely and it is in the best interest of Mr. Kolfage that the trial date in this case be moved to a date in 2022. Mr. Kolfage has not been actively participating in his defense and has had limited contact with his prior counsel. I have communicated with counsel to Messrs. Shea and Badolato, as well as counsel for the

government. All counsel consent to an adjournment of the trial date. If the Court is available, the parties propose that the Court set a trial date in mid to late March 2022.

The parties have also discussed the current motion schedule. If the Court were to accept the parties' proposed new trial date, we respectfully request that the motion schedule be modified in the following way: (1) defense motions due November 15, 2021 (currently August 30); (2) government responses due December 6, 2021 (currently September 13) (3) any replies due December 13, 2021; (4) motions *in limine*, joint proposed *voir dire* questions, requests to charge, and verdict forms by a date in mid to late February 2022 (currently October 18); and (5) oppositions to motions *in limine* due a date in early March 2022 (currently October 25).

If the Court were to decline to adjourn the trial, for the reasons above (including that the government has recently made a voluminous discovery production), I would respectfully request a modest modification to the current motion schedule to permit me the necessary time to review the relevant materials, review them with Mr. Kolfage, perform any necessary legal research, and draft any motions. With the consent of all counsel, I would propose the following modification to the current schedule: (a) defense motions due September 20, 2021 (currently August 30); (b) government responses due October 4, 2021 (currently September 13); (c) motions *in limine*, joint proposed *voir dire* questions, requests to charge, and verdict forms by October 25, 2021 (currently October 18); and (d) oppositions to motions *in limine* due November 1, 2021 (currently October 25).

Accordingly, I respectfully request that the Court: (1) adjourn of the trial date to a date in mid to late March 2022; and (2) modify the current motion schedule as proposed by the parties. Should the Court grant this request, the defendants agree to the exclusion of time under the Speedy Trial Act until the new trial date.

Respectfully submitted,

/s/

César de Castro

GRANTED. The Court, utilizing the procedures within this District governing the scheduling of jury trials during the COVID-19 pandemic, will seek to schedule a jury trial in mid to late March 2022. Defendants shall submit any motions by **November 15, 2021**. The Government shall submit its opposition papers by **December 6, 2021**. Defendants shall submit their replies, if any, by **December 13, 2021**. The deadline for motions *in limine* and other pretrial submissions is ADJOURNED *sine die*; the Court shall set the deadlines upon confirming a date certain for trial.

SO ORDERED.

Dated: August 26, 2021
New York, New York



ANALISA TORRES
United States District Judge